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SUBJECT: COSTA RICA: 2008 WORST FORMS OF CHILD LABOR REPORT

REF: A. 08 STATE 127448
[1](#)B. 07 SAN JOSE 2041
[1](#)C. 08 SAN JOSE 911
[1](#)D. 08 SAN JOSE 519

SUMMARY

[1](#)1. The following is the 2008 worst forms of child labor report for Costa Rica in response to Ref A; it updates our 2007 report, Ref B. Answers are keyed to Ref A, and source documents will be emailed to DOL/ILAB TMCCarter per same. The Government of Costa Rica is committed to eliminate the worst forms of child labor from the country by 2010. Child labor is most prevalent in rural, informal agricultural sectors, especially among migrant populations. Male working children and adolescents join the labor force in larger numbers than do females. The government institution in charge of the fight against child labor is the Ministry of Labor's (MTSS') Office for the Eradication of Child Labor and Protection of the Adolescent Worker (OATIA). This office helps coordinate policy and actions taken by other agencies such as the Ministry of Education, the National Child Welfare Agency (PANI) and the Ministry of Housing (MIVAH) to combat child labor. The government continued the "Avancemos" education subsidy program, which was implemented in [1](#)2006.

[1](#)2. The Sixth Report on the State of the Rights of Children and Adolescents in Costa Rica (EDNA), researched and written by the public University of Costa Rica (UCR) in conjunction with UNICEF and published in 2008, presents the latest available statistics on the GOCCR's fight against child labor. It notes significant progress in the ten years since the government implemented the Children and Adolescents Code (CNA), and it presents an updated profile of working adolescents ages 15-17. The International Labor Organization's International Program for the Eradication of Child Labor (OIT-IPEC) plays a major role in designing, funding, and directing anti-child labor projects in Costa Rica. END SUMMARY.

[1](#)A. CHILD LABOR LAWS AND REGULATIONS

[1](#)3. PROVISIONS: Costa Rica has enacted a comprehensive set of child labor laws, including definitions of the worst forms of child labor and the minimum age for employment. Among these laws, the Children and Adolescents Code (CNA, Law No. 7739), promulgated in 1998, establishes special protection for adolescent workers. Without exception, children under 15 years of age are prohibited from working (Article 92 of CNA), while adolescents 15 to 17 years of age may work no more than 6 hours per day and 36 hours per week (Articles 78, 80, 95 and 103 of CNA). Article 79 guarantees a minimum salary for workers age 15-17. The CNA also establishes the right to work-related health insurance, training, time to study, notification and just cause for firing, and more. Article 84

extends protection to those who work in family businesses. The country does not have a military.

¶4. HAZARDOUS WORK: Article 94 of the CNA describes, in general terms, the types of jobs that are prohibited for adolescent workers (ages 15-17). Those under 15 are not permitted to work, and only adults 18 and over may work in jobs that are considered hazardous. Executive Order No. 29220-MTSS, which took effect in 2001, augments the list of hazardous jobs. OATIA states that with this directive, Costa Rica complies fully with the International Labor Organization's Convention 182 on eradicating the worst forms of child labor.

¶5. HAZARDOUS WORK LEGISLATION: Legislation (Bill 15.929) to bring Costa Rican law in agreement with Article 3(d) of Convention 182 by establishing a list of hazardous jobs is still pending in the National Assembly's Committee on Children and Adolescence. This legislation would codify the list in law instead of having it exist under executive order only. The ILO noted that enacting this legislation has not been a priority for the National Assembly; the bill has been pending since 2005. However, the National Assembly is notoriously slow to act on most legislation due to complex, arcane rules of order, and its highly-diffuse political structure. (There are four major parties, three minor parties and three independent members in the 57-seat, unicameral legislature.)

¶6. WORST FORMS: According to the ILO (OIT, Spanish acronym), two reforms to the Penal Code brought worst forms of child labor and penalties into conformity with ILO Convention 182. Law 7899 of August 1999 codified many crimes of commercial sexual exploitation for the first time and enhanced protection for victims of already existing crimes. Law 8590 of August 2007 further strengthened protection for minors under the Penal Code in regard to rape, sexual abuse, pornography, and more. Prison sentences range from 6 months to 10 years for crimes ranging from possessing/producing pornography, sex with minors, corruption, pimping, and trafficking in persons (including sexual servitude and forced labor). (For a chart of penalties, see OIT-IPEC response, to be sent via email.)

¶B. ENFORCEMENT

¶7. REMEDIES: Legal remedies available to enforce child labor laws are established in the CNA (civil fines, Article 101) and the Labor and Criminal Codes (labor and criminal penalties and court orders). The Ministry of Labor and the court system are available to provide enforcement and remedies.

¶8. INTEGRAL ATTENTION TO VICTIMS: With assistance from ILO, in September 2008, the government released the Intra-institutional Directive for Immediate Attention for Minor Workers. This directive sets forth procedures that divisions of the Labor Ministry must follow upon detecting a case of child or adolescent labor that requires attention. In addition, the Protocol for Inter-institutional Coordination for the Immediate Attention of Minor Workers established coordination procedures among different entities with responsibilities related to child and adolescent labor.

¶9. GOVERNMENT RESOURCES: OATIA reported that the Labor Ministry spent USD \$496,000 on child and adolescent labor between 2002 and 2007, in administrative overhead including salaries, transportation, per diem and office supplies. The amount budgeted for 2008 was USD \$12,000 for the same. OATIA noted that the drop was due to receiving a nearly-offsetting amount of international aid for child labor programs for the period from 2002-2007. Also, for 2008, the government budgeted USD \$75.3 million specifically for the "Avancemos" cash transfer program to discourage child labor and to promote staying in school (see para 14 below). OATIA employs nine child labor specialists. OIT-IPEC reported that in 2007 the government had 89 officials dedicated to investigating commercial sexual exploitation: 39 Justice Department officials and 50 police officers. OATIA carries out diagnostic research on different sectors and/or regions. The MTSS website includes a link to OATIA with information about child labor and a link to file a complaint.

¶10. GOVERNMENT INVESTIGATIONS: OATIA noted that while child labor laws are adequate, lack of human resources impeded better enforcement coverage. The Ministry of Labor investigates cases immediately and has 10 days to resolve a case. At the end of 2007, OATIA implemented an electronic data base to track cases and to compile statistics in the San Jose area; the agency intended to expand the use of the database to other offices, but has not yet been able to do so due to technical issues. There are currently 90 labor inspectors; though none are dedicated solely to child labor investigations, all 90 have received child-labor-awareness training.

¶11. INVESTIGATION STATISTICS: 2008 child labor investigation statistics will be available from MTSS' National Labor Inspectorate in February, and Post will forward septel when/if received. Post's last report (Ref B) contained investigation statistics from 2006. In 2007, inspectors conducted 97 investigations of labor cases involving minors. Sixty-three percent of these were conducted in the central region of the country (San Jose, Heredia and Cartago provinces). Of the 97 cases, 43 percent involved children working in commerce, 20 percent in the service sector, 14 percent in the industrial sector, 10 percent in agriculture, 9 percent in construction, and 3 percent in transportation. Sixty-four percent of the investigations were related to male workers, and 33 percent to females. Of the 67 cases resolved in 2007, OATIA reported that 3 cases (4 percent) involved "child labor;" 60 cases (90 percent) involved illegal dismissals; the remaining 4 cases (6 percent) involved workers rights and firing procedures.

¶12. COMPLAINTS RECEIVED: During 2008, OATIA received 450 complaints. Fifty-seven of those complaints involved children under 15 years of age. In comparison, during the first six months of 2007 (the only data thus far available for that year, see Post's 2007 Child Labor Report, Ref B), OATIA received 401 complaints from children and adolescents, with 60 under 15 years old. Given that the number of total complaints for 2008 was only 12 percent more the number of complaints filed within the first six months of 2007, it appears that the number of overall complaints dropped in 2008. Post will forward complete 2007 statistics on number of complaints septel, if/when received.

¶13. TRAINING ON WORST FORMS: From April to November 2008, the government trained or sensitized 547 police officers, immigration officials, immigration police officers, OIJ officers, and national health system workers about trafficking in persons. Additionally, UNICEF trained 50 community police officers and police academy instructors following a "train the trainer" approach. For a complete update on the GOCR's anti-trafficking efforts since the 2008 TIP Report, see Ref C. Please see also Post's response to DOL's request for information regarding child and forced labor in the production of goods (Ref D).

¶C. SOCIAL PREVENTION PROGRAMS

¶14. "AVANCEMOS" ("LET'S GET AHEAD"): This conditional cash transfer (CCT) program continues as the linchpin of the GOCR's anti-desertion and anti-child labor efforts and was explained in more detail in Ref

¶B. The program provides a progressive subsidy to encourage extremely poor students to remain in school (vice dropping out to work) or to return to school, thus helping to reduce the number of children and adolescents who enter the workforce every year. "Avancemos" explicitly addresses child labor as one of its main objectives, together with poverty reduction and strengthening education. Through 2008, two government agencies - The National Fund for Scholarships (FONABE) and the Institute of Social Assistance (IMAS) - were in charge of implementing the program under an interagency team headed by MIVAH. Due to problems with interagency coordination and duplication as well as an unrelated corruption scandal involving the previous Minister of Housing (MIVAH), IMAS assumed sole responsibility for managing Avancemos as of January 2009.

¶15. AVANCEMOS BENEFICIARIES: As of October 21, 2008, Avancemos had 130,586 beneficiaries enrolled in the program - an increase of almost 36,000 students over 2007, due to the program's popularity

since beginning as a pilot project in 2006 (Ref B). Participants were split relatively equally by gender with 69,800 females and 60,786 males. The total included: 35,070 students age 14 and under; 63,301 students ages 15-17; 24,285 students ages 18-20; and 7,930 students age 21 and over. Thus, 75.4 percent of subsidies reached youth age 17 and under. Approximately 42 percent of the beneficiaries were considered rural and 58 percent urban. Projected funding for the program for 2008, according a November 2007 MIVAH report, was USD \$75.3 million (approximately 39.2 billion CR colones); the high level of funding was due to the fact that this project was a cornerstone of President Arias' social initiatives. According to a media reports, for 2009 the government budgeted 55.2 billion CR colones (approximately USD \$100.4 million at USD \$1:550 colones) to serve 150,000 students.

16. OATIA PROGRAMS: In 2008, OATIA continued seven projects (Ref B) geared toward improving life and work conditions of indigenous and migrant groups, eradicating child labor, and protecting at-risk children and adolescents. OATIA expanded a vocational training program for teenagers who had worked previously in dangerous jobs in the Caribbean and northern regions. The seven programs and their beneficiaries for 2008 were:

a) "Defense and Human Rights Promotion to Improve Living and Working Conditions for Indigenous Ngobe, Nicaraguan and Local Migrant Families in Coffee Harvest Seasons"; Location: Zona de los Santos; Persons served: approximately 11,000, including children and adolescents; Agencies involved: OATIA, National Commission for Indigenous Affairs (CONAI), and other government institutions.

b) "Action Project to Sensitize, Train, and Mobilize the Municipalities of Canas, Santa Cruz, and Carrillo regarding Eradication of Child Labor and Protection of the Adolescent Worker"; Location: Guanacaste province; Persons served: directly benefitted children, adolescents, their parents and municipal officials in those areas, but no number of beneficiaries provided; Agencies involved: OATIA and Vision Mundial.

c) "Primero Aprendo": see para 18.

d) "Project for the Detection, Protection and Reduction of Minor Workers Identified by Local Government Censuses, according to Article 96 of the CNA"; Locations: 11 municipalities, including Desamparados, Curridabat, Escazu, Heredia, Belen, Alajuela, Moravia, Liberia, Carrillo, Canas, Santa Cruz; Persons served: children and adolescents; Agency involved: OATIA.

e) "Improving Living Conditions for Child and Adolescent Workers and their Families in the Atlantic Huetar Region"; Location: Limon; Persons served: 100 rural child and adolescent workers; Agencies involved: OATIA, MEP, PANI, Social Security Agency (for worker insurance and national health, Caja Costarricense de Seguridad Social, CCSS), and MTSS' DNI (inspectors).

f) "Human Development Promotion, Child Labor Eradication, and Protection for the Adolescent Worker in the Rural Communities of Mora and Puriscal for Sugar Cane Production Free from Child Labor, among the Association of Organic Cane Producers"; Location: Mora and Puriscal; Persons served: children, adolescents and their parents, for a total of 12,807 people; Agencies involved: OATIA, Ministry of Agriculture and ASOPRODULCE sugar cane producers association.

g) "Integrated Vocational, Educational and Human Development Training for Rural Adolescent Workers to Eliminate Dangerous Adolescent Labor in the North Huetar Region"; this program provided basic education along with vocational training in agriculture, tourism and other fields; Location: San Carlos, Los Chiles and Upala; Persons served: 70 adolescents between 14-17 years old who had worked in dangerous jobs, were not in school, and came from low-income families - for a total of 350 served including their families; Agencies involved: OATIA, ILO/OIT, the National Institute of Learning (INA), FUNDECOCA, PANI, CCSS, and others.

17. MINISTRY OF EDUCATION PROGRAMS: The Ministry of Education (MEP) operates programs that allow adolescents to harmonize work and study. "Aula Abierta" (Open Classroom) is directed toward 6,121 students who did not finish primary school. "Nuevas Oportunidades

para Jsvenes" (New Opportunities for Youth) is a secondary-level program that provides tutoring two times a week to 14,648 students in 2008. Finally, a GED program allows students to complete their high school education. Funding levels for 2008 had been requested but were not available from MEP as of this writing. Post will forward if/when those figures are received.

¶18. "PRIMERO APRENDO" (FIRST, I LEARN): Under the auspices of the International Child Labor Program/Education Initiative from DOL/ILAB, in association with Care-USA and implemented locally by Caritas, this regional program established several projects to protect at-risk children from exploitive work. This program officially concluded in August 2008, but Costa Rica was granted an extension until March 31, 2009, with no additional funding. "Primero Aprendo" served 526 children in Costa Rica with a four-year budget of USD \$576,198. Of that amount, 2008 funding for Costa Rica was USD \$177,020, serving 175 children, according to OATIA.

¶19. WORKING WITH UNIONS: The Central Movement of Costa Rican Workers (CMTC) continued its program, entitled "SOLETICO" to educate against child labor. "Horizonte Cero", a documentary produced in 2006, is still shown as a tool to discourage child labor (Ref B).

----- ¶D. COMPREHENSIVE POLICY TO ELIMINATE CHILD LABOR -----

¶20. "NATIONAL PLAN OF ACTION" REMAINS IN EFFECT: In 2005, the GOCR initiated the Second National Plan of Action for the Prevention and Eradication of Child Labor and Special Protection for Adolescent workers (SNPA). This plan called for the elimination of child labor by 2010 and specific financing targets which required relevant government ministries and agencies to earmark sufficient funds in their annual budget requests. The Arias administration (which entered office in May 2006 and will serve until May 2010) updated the SNPA to incorporate new policies and priorities, especially in Chapter 4 which deals with the program's goals, objectives, and responsibilities. The revised SNPA was published in January 2009. This update has allowed the GOCR to proceed with a full-scale educational subsidy program to address some of the major causes of child labor (the "Avancemos" project, see para 14 above).

¶21. CHILD LABOR AS PART OF POVERTY REDUCTION: The Arias administration incorporated Avancemos as one of the main priorities of its "National Plan for Development" under strategies for the "Fight against Poverty." The government thereby identified child labor as a specific issue to be addressed in poverty reduction efforts.

¶22. EDUCATION POLICY: By law, education is free and compulsory until the 11th year (which is the 5th year of bachillerato or high school). The EDNA report referred to in para 2 above, however, noted a marked difference in the quality of purely private and charter-type schools (private schools that receive government funds for teacher salaries and administrative personnel) over purely public schools. The report also called for strengthening rural school systems.

----- ¶E. PROGRESS -----

¶23. INEC 2002 STUDY: The National Institute of Statistics (INEC) 2002 Survey on Child and Adolescent Labor remains the current, official, and most comprehensive source of child labor statistics (Ref B). It stated that 113,523 children between the ages of 5-17 worked at that time nation-wide (representing 10.2 percent out of a population of 1,113,987 children and adolescents). Of this working child population, 72.7 percent were boys (82,512) and girls (31,011) 5-17 years old. A total of 54,259 boys and girls were employed on a regular basis, meaning full time job year round. Although OATIA has pushed for a new survey, INEC is not planning another, ostensibly due to lack of funding. (The ILO funded the 2002 study).

¶24. NEWER FINDINGS: However, the 2008 INEC Household Survey included a few, limited questions about child labor (see 2008 "Encuesta de Hogares de Propssitos Mltiples" via email). Additionally, the UNICEF-UCR "EDNA" Report refers to statistics through 2006 drawn

from: the "Monitoring System for the State of Youth in Costa Rica, 1990-2006" based on annual INEC Household Surveys, and the "First National Youth Survey of 2007." (See EDNA report, Chapter 5, via email.)

¶25. INEC 2008 HOUSEHOLD SURVEY: According to Chart 3, page 33-34 of the 2008 INEC Household Survey, out of a total population of 3,631,597 inhabitants (based on 2000 Census figures, adjusted), 538,939 were youth ages 12-17. Out of that youth population, 57,204 were considered part of the active labor force, with 47,094 currently employed (less than nine percent of youth ages 12-17 were working). Note that because the base population figures differ from the INEC 2002 study, and the 2002 study also included statistics for children ages 5-11, one should use caution when comparing the results from these two sources.

¶26. EDNA SHOWS PROGRESS: The UNICEF-UCR Sixth Report on the State of the Rights of Children and Adolescents in Costa Rica (EDNA) undertook to measure progress in the fight against child labor 10 years after the 1998 implementation of the CNA, using statistics through 2006. Chapter Five is dedicated to "Education and Work." The report cites principal causes of child labor in the country as: poverty, difficulty in providing education and retaining students, and a cultural pattern that views work as a source of values and as preparation for life. According to EDNA, the labor market shows net declines across the board for child and adolescent labor, ages 12-17 - for males and females, and rural and urban youth - since implementation of the CNA. (See EDNA for charts and figures, via email.)

¶27. ANALYSIS OF WORKING YOUTH AGES 15-17: EDNA utilized statistics from the 2007 "First National Youth Survey" to establish an updated profile of workers ages 15-17, adolescents above the legal minimum age to work. According to this source, 18 percent of youth ages 15-17 worked based on a population of 274,743 in that age group. The total number of workers ages 15-17 was 49,352 - broken out between 36,837 males and 12,525 females; 27,742 rural and 21,610 urban. The profile includes analysis by both occupational group and by type of activity.

¶28. AGES 15-17 BY OCCUPATION: According to figures reported in EDNA from the 2007 First National Youth Survey, by occupational group, 29.1 percent worked in the category of direct services to other people; 23.4 percent in miscellaneous jobs including gardeners, janitors, domestic employees, transport dispatchers, car washers, etc.; 12.7 percent in agriculture and fisheries; 11 percent in artisan production, construction, mechanics and graphic arts - a group that includes handicrafts, carpentry, shoemaking, furniture and upholstering, bricklaying and electrical work, etc.; 9 percent were machinery operators or equipment maintenance workers; 6.4 percent worked in administrative support positions; 6 percent in general professional or technical jobs; 1.1 percent in professional, scientific or intellectual work; and 1.1 percent did not respond or did not know.

¶29. AGES 15-17 BY ACTIVITY: When analyzed by type of activity, 21.5 percent worked in miscellaneous activities (not well defined or not in another classification, usually in family businesses or cases where the work was not performed in a specified place); 20.7 percent in "real estate, private business, and rental" which included such activities as working in real estate offices, for attorneys, or in print shops; 15.9 percent in hotels and restaurants; 12.5 percent in a category called "commerce, vehicle repair and appliance repair"; 9.8 percent in the ILO-standardized category called "agriculture, fisheries and hunting" which included cultivation of flowers and houseplants, working on farms, and in dairies and fisheries; 6.1 percent worked in industrial manufacturing; 3.8 percent worked in construction; 2.3 percent in transportation, warehousing and communications; and 7.6 percent did not respond or did not know.

¶30. REMUNERATION FOR YOUTH 15-17: According to the same source, 76.3 percent of working youth ages 15-17 earned wages; 16.9 percent worked for themselves; and only 4.1 percent worked for a relative without remuneration; 1.5 percent were paid in-kind; and 1.1 percent stated that they owned their own business. While ENDA reports that the minimum monthly wage for these youth should be 125,000 CR colones per month (approximately USD \$227 per month at USD \$1:550 CR colones), 60.2 percent earned less than 100,000 CR colones per

month; 19.1 percent earned between 100,000 and 150,000 CR colones per month; 14 percent earned from 151,000 to 200,000 CR colones per month; 3 percent earned from 201,000 to 250,000 CR colones per month; 2.6 earned 251,000 CR colones and up; and 1.3 percent did not respond or did not know.

¶31. HOURS WORKED FOR YOUTH 15-17: As for hours worked per week, 31.4 percent worked less than 20; 18.1 percent worked 20-35; 15.1 percent worked 36-46 (which would be a violation of the CNA, which limits weekly hours to 36); 17.7 percent worked 48 hours per week; 6 percent worked 50-60; 6.1 percent worked more than 60 hours; and 5.7 percent did not respond or did not know.

¶32. WORK VS. SCHOOL FOR YOUTH 15-17: Still from the same source (EDNA), 24.2 percent of those not in school did not study because they had no interest in school; 13.7 percent of youth ages 15-17 did not study because they had to work; 13.2 percent had trouble "accessing the educational system" (though not explicitly explained in EDNA, this was probably due to distance, lack of transportation or rural schools, school overcrowding or similar issues); 7.5 percent could not pay costs associated with studying; 7.3 percent said school was difficult; 7.1 percent lived with a spouse or partner; 4.7 percent preferred to work rather than study; 4.6 percent dropped out due to pregnancy; 4.4 percent had finished their studies; and 1.9 percent were ill or incapacitated. One percent could not study due to having to help with housework. The percentage that did not study for other reasons was 8.3 percent, and 1.9 percent did not respond or did not know.

COMMENT

¶33. The government is committed to the topic of child labor and is taking steps to end it. The picture of child labor is not/not bleak in Costa Rica, especially as compared to other countries. Recent figures show that less than nine percent of youth ages 12-17 work, and of that figure, those 15-17 can work legally. However, when analyzing factors such as remuneration, hours worked per week, and the fact that almost 15 percent of those ages 15-17 have to work instead of study (including the one percent who had to help with housework), there is still room for improvement. Costa Rica should focus additional efforts on ensuring that labor codes are followed to protect adolescents ages 15-17 who are working legally but are being exploited in terms of low wages and long hours.

¶34. On a related note, we recently visited a coffee plantation in the Poas area outside of San Jose and observed first-hand the "child labor" on coffee farms. While more serious problems may indeed exist, the eight-year-old boy we interviewed was spending his time running through the rows and around the plants, empty sack in hand, laughing and playing with his brother - hardly the type of hard, grueling, physical labor one imagines during the coffee harvest. Officials from the INCAE Business School's Center for Sustainable Market Research told us that most child labor on coffee farms in Costa Rica involves children who seek to earn money for their school supplies during their summer vacation (harvest season) by collecting coffee cherries dropped by other pickers. According to the same officials, when migrant children work on farms with their parents, they often perform the same tasks of picking up after other harvesters, instead of the much harder work of picking coffee from the plants.

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